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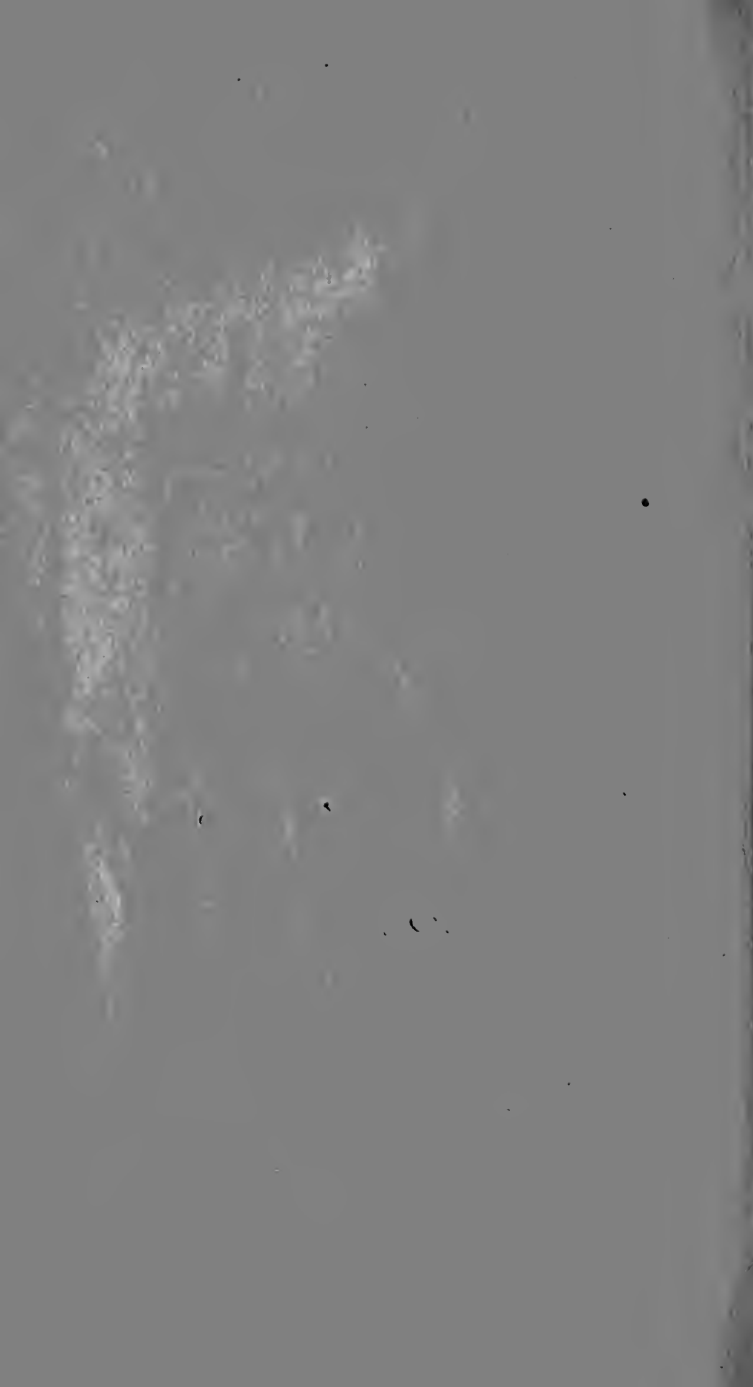
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SPEECH

OF

John ✓
MR. HOLMES, OF MAINE,

Delivered in the Senate of the United States,

ON THE

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Mission to Panama.

MARCH, 1826.

THE following Resolution, reported by the Committee of Foreign Relations, being under consideration, viz:

“Resolved, That it is not expedient, at this time, for the United States to send any Ministers to the Congress of the American Nations assembled at Panama”—

Mr. HOLMES, of Maine, addressed the Senate as follows:

Mr. PRESIDENT: I never rose on any question, with my mind in greater embarrassment, uncertainty, and doubt than on this—and I am very far from imagining that I shall edify, much less convince, any member of the Senate: for

“He that’s convinced against his will,
Is of the same opinion still.”

But I rise rather to make to you a very humiliating and mortifying confession. It is this—that, though this question has been more than two months before us—though it has undergone an elaborate investigation, and been presented to us in a very able report of the Committee on Foreign Relations—though the message and documents have been fully examined, and we have had a discussion here which, for argument and eloquence, would have done honor to any Country, in any age—yet I am still, in a measure, ignorant of the subject. It is not pretended, sir, that I don’t know that the President has nominated two gentlemen to be Ministers, or something

else, to a Congress, or something else, to be held at the Isthmus of Darien—that those nominations have been referred to a committee, who have reported a resolution, that it is inexpedient to confirm them, and that this resolution is now under consideration. Were I not to know this I should be stupid indeed. But of the nature, character, or extent of the mission, and the powers and duties of the deputies to be sent, I am as utterly in the dark as was *Nichodemus* when he was told that, “except a man be born again he cannot see the kingdom of God.” But, sir, there is even some consolation in this state of uncertainty. I have fewer of those alarming fears or ardent hopes which appear to agitate others. Not knowing the nature or the extent of the object, I cannot foresee its consequences—and I could safely repose on the maxim, “if one cannot clearly see where to go, nor what to do, it is best to stand still and do nothing.” And there is a further consolation, in finding that I am *not alone* in this state of comfortable uncertainty, but in very good company.

Two gentlemen, of transcendent talents, and great political experience, have advocated the measure. Wishing for light, I listened to them with intense interest; but to my utter disappointment, they, so far from defining the character and objects of this Congress, disagreed as to both. With one it was not belligerent, because it was *seeking peace by arms* and managing a *defensive war*. With the other, it has no power to touch the political condition of Cuba—the principal subject in which we can have any interest. And yet this gentleman would send Ministers to *prevent* their doing, what, he says, they have no power to do; just as the President would send them to prevent the Spanish American Nations from conceding to Spain any commercial privileges, as the price of their independence, when, by their treaties before us, they have jointly, and severally, and solemnly stipulated that they will *make no such concessions*.

The President, indeed, seems to be involved in the same uncertainty. When the invitation was first given, he, with that wisdom and prudence for which he has been so much celebrated, required, as a preliminary, that “the precise questions” to be discussed, “the powers of the deputies,” the “organization of the Congress,” and the effect of its decisions, should be first understood. These conditions, so indispensable, are however, yielded, and Mr. Clay, in his letter to Mr. Salazar of the 30th November last, although he thinks “it would have been perhaps better if there had been a full understanding

between all the American Powers who may assemble by their representatives, of the *precise questions* on which they are to deliberate, and that some other matters respecting *the powers of the deputies* and *the organization* of the Congress, should have been distinctly arranged prior to the opening of its deliberations;" yet, "as the want of the adjustment of these *preliminaries*, if it would occasion any inconvenience, could only be productive of *delay*," tells us that "the President has determined" to accept the invitation. It is worthy of remark, that the *questions* to be discussed, the *powers* of the deputies, and the *organization* of the Congress are considered only as "preliminary points." Now, if the subject, the authority to act on it, and the manner and effect of the action, are nothing but preliminary, pray what are the main or principal points? It would seem to me, sir, that these embraced the whole matter. Without these, the instructions to our Ministers must be given from *conjecture*, and after they shall arrive, if these should not conform to those of the deputies assembled, it will "be only productive of delay"—a delay until they can send home for new instructions. Thus will our hurry, as is usually the case, produce nothing but delay and embarrassment.

In this state of uncertainty, it was not very unreasonable that the Senate should require a little more light, before they acted definitively on a measure new and extraordinary, which might affect materially, our foreign relations, and change radically our whole course of policy.

For myself, I was particularly desirous that something should be said to dissipate these clouds. All my predilections were in favor of the proposed mission. The Spanish Americans had my early sympathies, and they still have them. In every thing which might promote their independence, they have not only had my sympathies, but my vote. I would do every thing for their interest consistent with our maxims of policy, settled and established in great wisdom. This was, moreover, a measure proposed by a new administration, "to be tried by its acts," and I felt no disposition to embarrass it.—The President, though not the candidate, which I preferred, was elected in the mode prescribed by the constitution. Of my preference for another gentleman I shall always be proud. That gentleman stood without allies—the alliances were all against him—he had to contend with "principalities and powers"—he failed, and is in retirement.

Mr. Adams is elected, the coalition is dissolved, and I cannot, with any cordiality, unite myself to any *fragment* of that coalition against the administration. And I had made the determination, long before I had heard that of the distinguished individual to whom I have referred, to—"try the administration by its acts"—to approve where I *could*, but disapprove where I *must*; but, while I accord due respect and confidence to the Chief Magistrate of the Union, I must not forget the duty, nor surrender the independence, of a Senator.

In this state of feeling, I was, on this question, a fair candidate for conversion, and it was not unreasonable to expect that the friends of this mission should give us their arguments in support of it. I know their talents, I have experienced and felt their powers; and I had a right to expect that a measure, so enveloped, should be made plain. I felt grateful, therefore, and I now tender my sincerest thanks to the gentleman from Rhode Island, (Mr. ROBBINS,) and the gentleman from Louisiana, (Mr. JOHNSTON,) for the *attempt* they have made; still it is *but* an attempt. It seems now, that, as to the powers and duties of this Congress, these gentlemen neither agree with the treaties which establish it, the President, the Ministers of those powers, nor with each other.

The gentleman from Massachusetts, (Mr. MILLS,) when he insinuated, (somewhat tartly,) that I was attempting to instruct or chatechise him, did me great injustice. From him, being a member of the Committee who dissented from the report, I was *asking* instruction. No, sir, I shall never *again* attempt to instruct him. Once, when we were members of *another* Senate, I did attempt to inculcate on his mind some wholesome truths, but found him inveterately obstinate and incorrigible. I believe he has since become impressed with the importance of those principles, and is now in a hopeful way. But I was probably wrong in insisting that gentlemen should speak to us. It was not for the want of talents: for theirs are of the highest order; it was not that they wished for no converts: for their strength of numbers, if ascertained, is not very great; it was not from fear that Executive smiles, by being more diffused, would become less intense—the fault was not in *them*, but in their *cause*. They had the best reason in the world for not advocating a measure which even *their* powers could not sustain, and they refused to speak because they had nothing to say. From these remarks, I, of course, exempt the two gentlemen who have supported the measure, and presume that they have said all

which can be said. We, the uninspired, must, therefore, amidst these doubts and discrepancies, examine into this matter for ourselves, and see to what result we can come.

The proposition is to send deputies of some character to a Congress at Panama. The questions I shall put, and in which I have, in substance, been preceded by the gentleman from South Carolina (Mr. HAYNE) are these: What is this Congress? What are its objects and powers? Have we any coincident objects and powers which render a mission *necessary* and *proper*? In these questions is involved the whole inquiry; they embrace the whole subject, and yet they have been deemed but "preliminary points."

Instead of recurring to the opinion of the President, or of the Spanish American Ministers, it is safest to go to the foundation, the *constitution* of this Congress. Whatever we might suppose, or their Ministers might imagine, it is very certain that the deputies there must be limited in the exercise of their powers to the compacts which gave birth to the Congress. We have before us four treaties, in all which the Republic of Colombia is a party: one of the 6th July, 1822, with Peru; one of the 12th July, 1823, with Chili; another of the 15th March last, with Guatemala; and the other of 20th September following, with Mexico. They are termed "compacts of perpetual union, league, and confederation." In some respects they differ from each other. In that with Peru, the *quota* or contingent of troops for mutual defence is stipulated, and they are to "maintain in common the cause of independence." In one, they are to "identify their principles in peace and in war;" and in another, their agreement is against "whatever may menace the security of their independence and liberty, affect their interests, and disturb their peace;" and they unite in whatever will "assure the mutual prosperity, harmony, and good intelligence" with each other; and there is in some, a provision in regard to boundaries. Excepting these discrepancies, they concur. Their compacts are *perpetual*—they are offensive and defensive; each may repel an invasion of the other, observing the laws of the invaded territory; insurrections are to be mutually suppressed; privileges and immunities of commerce and citizenship are to be equal, and state sovereignty is secured; indemnity to Spain, as the price of independence, and a separat peace, are prohibited, and the confederation is limited to the American nations "formerly Spanish."

To secure these objects, a *Congress* is instituted, to consist of two deputies from each of the parties, with certain delegated and defined powers; to ordain and establish the proportion or contingent to be furnished for the common defence; to be a council on great occasions or in great conflicts; to form a rallying point in case of danger; to be an interpreter of treaties; to act as umpires in case of disputes; and to establish intimate relations between the parties. Now, sir, whether these grants confer legislative, executive, judicial, or diplomatic powers, any, or all, it is certain that this Congress is made as *perpetual* as any government can be made. Its model is our Articles of Confederation of 1778; and the slightest comparison will convince any one that this was the identical instrument from which this Congress was constituted. They have, as near as possible, taken the *words*. Theirs are compacts "of perpetual union, league, and confederation," ours, "articles of confederation and perpetual union;" but, by recurring to the third article, you will see ours are called "a firm *league* of friendship"—each, then, is perpetual, both secure state sovereignty, provide equal privileges and immunities of commerce and citizenship, fix the quota or contingent for the common defence, are offensive and defensive, umpires in case of differences, prohibit a separate peace, and establish the rule by which new parties are to be admitted into the league.

But, sir, there are two important points in which they differ: our confederation is by *articles*, theirs by *compact*. By ours, the power is expressly delegated to appoint and receive ambassadors and other public ministers; by theirs, it is as expressly withheld.

If it be, indeed, as the gentleman from Rhode Island (Mr. ROBBINS) contends, a diplomatic tribunal, it is presented in a serious, if not an alarming aspect. From the nature and character of the powers granted, the duties to be performed will never terminate. It is *perpetual*. This point has not been controverted, and argument would be thrown away to prove it. If *words* can convey to the human mind an idea of perpetuity—if a perpetual confederation can be created by terms—a "compact of perpetual union, league and confederation" are the best and strongest which can be selected or invented. In this view of it, we may perceive why the Spanish Americans have created it by treaty. We, at the formation of our confederation, being simple Republics, having all the powers of sovereignty, could grant a portion of our sovereignty by *articles* of confederation; but the

parties to this confederation are, themselves, confederated Republics, with limited powers. Mexico, for example, at the time of the adoption of her Constitution, consisted of fifteen states. She took for her model our Federal Constitution, of which her's is nearly a transcript. In some things, to be sure, she has deviated for the worse, as in an established church; in others, for the better, as in guarding against consolidation, by providing that the Federal Judges should be nominated by the States; but the treaty making power is the same as our own, and, like ours, is *undefined*.

The President, with the advice and consent of the Senate, two-thirds concurring, can make treaties, which, when made, become the supreme law of the land. The United States of Mexico could cede no sovereignty, but by virtue of the treaty-making power, and, consequently, this Congress could be created only by compact. If then it is only by this, that the power of diplomacy can be surrendered to a foreign tribunal, we may well pause and inquire to what *objects* the treaty-making power extends. Not being defined by the Constitution, the reasonable inference is, that it extends to all the ordinary subjects of negotiation. If this be so, you may, by treaty, obtain and *dispose* of territory and population—transfer protection and allegiance—change the law of contract in a State—barter away its territory, and, unless you have violated the Constitution, this very session, not only change State laws but repeal them. If, then, this power be so transcendent, is it prudent to confide it, if you can, to a foreign tribunal, in which your voice will be not more than one to six, or perhaps one to ten?

It is but poor consolation to be answered, that nothing definitive can be done there, and treaties made cannot become the supreme law of the land, until ratified by the President and Senate. How many questions may be determined by negotiation which the House of Representatives can never reach?—where no appropriation is necessary? Find a nation whose views of legislation are coincident with yours, and almost every municipal law, whether federal or local, may be modified by the President and Senate, in spite of Congress or the State Governments. The laws of devises, primogeniture, entailments, &c. may be established by treaty, made by the *Executive* power, which are to be the supreme law of the land, and to ride over and trample down all laws of Congress, and of the States.

To become parties to a treaty-making, or treaty-originating Congress, of unlimited duration, is a new and extraordinary step. It becomes more dangerous from our practice under the Constitution, which, in my view, is a perversion of its spirit. The President, with the advice and consent of two-thirds of the Senate, is to *make* treaties. The power of *making* is taken away, and nothing but that of *ratifying* is left to the Senate—A new power, unknown to the Constitution, is sprung up, termed a “Cabinet”—instructions to ministers, the first step of negotiation, are never submitted to us—these are discussed and agreed on in “the Cabinet,” and, with these, and probably with the project or draft of a treaty, the minister is despatched to *make* “supreme laws of the land,” which it is extremely embarrassing and invidious for the Senate to reject. If it be true, as the gentleman from Rhode Island has told us, that this is a diplomatic Congress, and is of perpetual duration, it is alarming indeed.

But I hope and trust the case is not quite so bad as he makes it. It seems to me that no power of diplomacy can be exercised—no such power is granted—“National sovereignty” is reserved and is not to be interrupted “with respect to their relations with other foreign nations,” and making treaties is specially reserved to such power by its Constitution. And it is, moreover, inconsistent with every principle of free government, that the makers of treaties should be the expounders or “interpreters”—that legislatures should interpret the laws which they shall have enacted. The powers granted are, therefore, of another order, and they are legislative, executive, and judicial. In the exercise of any of these can we, or ought we, to participate? As *ministers*, they have no power to receive our delegates—as *ministers*, you have no power to send them. An ambassador, or public minister, carries your sovereignty with him. He is your representative near the government to which he is sent, and is under the protection of that Government, and to be protected according to your own laws. Here you send him to no Government authorized to receive him, or having the power to protect him. Besides, the powers granted to that Congress are to be exercised *exclusively* by the American nations “formerly,” or “*sidevant* Spanish” To admit us to vote, or even deliberate, would be as much a violation of the compact or Constitution, as for us to have admitted the Dutch or French minister to take a part in the deliberations of Congress, un-

der our confederation. Neither can they be permitted to *hear* the discussions. From the nature of the powers granted, this Congress must be an organized body, governed by a presiding officer, and subjected to *rules*. Many of their deliberations must be of a belligerent character, and therefore secret. They must have the authority, and it would often become their duty, to impose secrecy, even by oath. Now can your members take such an oath? Suppose (a case most likely to occur,) an invasion of Cuba should be there discussed—this measure your ministers must oppose. Could they, without a violation of duty to their own Government, give an obligation of secrecy, and could they be admitted without that obligation? Your Ministers *Plenipotentiary*, then, are to be nothing but lookers on, or listeners, and in that in which your interest is most concerned, cannot be permitted to act in those characters. If the United States intend seriously to oppose an invasion of Cuba, they ought long since to have made known their determination, fully and definitely, to the Spanish American ministers here.

But we will suppose these obstacles surmounted, and your deputies admitted in full communion. We are then first to discuss the contingent to be provided by each for the common defence. On this subject, Mr. Obregon is very explicit. We are to fulfil our *pledges* against European colonization, and interference of any of the Powers of Europe, except Spain, against the independence of the Spanish Americans. This subject of colonization, which seems to be so involved in mystery that no mortal can clearly perceive its meaning, has been so well disposed of by other gentlemen, that it would be indeed fruitless to bestow on it any further observations. The other *pledge* is more explicit. But, sir, as to pledges, allow me to say, once for all, that the President of these United States has no power whatever to pledge the People of this Union to any nation in any thing. And every declaration of his, made to the world, must be understood by other nations, not as a *pledge* of what we *must* do, but as an *opinion* of what we *will* do. Until Congress concur, or assent to a measure affecting our foreign relations, nothing is binding. Still, the Mexican minister understands it differently, and intimates that, to fulfil the obligation, there must be “a previous concert as to the mode in which each shall lend its co-operation.” And Mr. Salazar recommends “an eventual alliance,” to be kept *secret* until the *casus fœderis* occurs. If these ministers are correct, we are

already entangled, and, whether, by "our own means," or by "previous concert" with them, we are bound to fulfil stipulations made by the late administration: and however we might, at this time, deny the force of the late President's pledge, still, if we give our assent to this mission, for the purposes thus avowed, we are ever after foreclosed. One of the "precise questions" disclosed, then, is the *means* to be furnished by the United States, to prevent European colonization, or interference in American affairs, and the *manner* of furnishing the means, whether by *secret treaty*, or otherwise. Yet the Executive informs us that we are "not to deliberate on any thing of a belligerent character, contract alliances, nor undertake with them any thing hostile to other nations." Now, these things are not to be done, and yet, if we accept the invitation to this Congress, we are bound to concur in the avowed objects. How will gentlemen reconcile these conflicting opinions?

The next grant of power is that of a council, on great occasions, or, as in one of the treaties, "in great conflicts." The parties to these compacts are at war with Spain and they are to counsel and concert with each other the means to terminate successfully this "conflict." Yet the gentleman from Louisiana maintains, that this is not a belligerent Congress; and for reasons which are to me somewhat singular and extraordinary. He advances some principles of international law, which, to say the least, are novel. The *objects* are defensive and to obtain peace, and therefore the *purposes* are not belligerent! Upon these hypotheses, few nations have ever been belligerent: for scarcely one can be found, that will acknowledge itself the aggressor. Each is fighting in defence of its rights, and the professed object of every one is *peace*. And, although thousands, nay, millions, have been slain in battle, there was no war; this was only a very peaceable kind of killing. Does the President mean the same when he says, that "we are not to deliberate on any thing of a *belligerent* character?" If he does, his views may be easily reconciled with those of the Spanish American ministers. If, therefore, our ministers are to discuss any question relating to the colonization or interference of any European power on this continent—if we are to settle there the mode in which they are to be resisted, or to deliberate as to the contingent to be furnished, and the manner of the resistance—if, indeed, we take any course in regard to Cuba and Porto Rico, our attitude must be hostile, and our neutrality is violated. "A council in great conflicts," is, emphatically,

a belligerent council. Yet the gentleman from Louisiana consoles himself, that our neutrality will not be violated, if we dissuade them from invading these Spanish Islands. Sir, upon this point I shall have something to say, in another branch of my argument.

But the greatest lure to us, is the thought of participating in "A COUNCIL ON GREAT OCCASIONS!" You know, sir, that Republics are never ambitious—they are always humble, forbearing, unassuming—their leading politicians are always as meek as Moses. Yet it seems, in this case, we are fascinated and inflated with this "great occasion." My life for it, this is no scheme of the President—he is a cool, deliberate, calculating, penetrating, discriminating, reasoning, sort of politician. It is a toy, yielded to the importunity of the Secretary of State. The President has no strong partialities for the Spanish Americans—Mr. Clay wanted a play thing, and the President, probably with reluctance, consented so far to gratify him, as to present the proposition to the Senate, hoping no doubt that we would reject it. Sir, who has been the leader of this crusade, in favor of Spanish American liberty? Who, more than seven years ago, became their chief advocate, in the House of Representatives? Whose speeches have been translated and retranslated, and circulated throughout their vast dominions? Who has been toasted as the champion, and canonized as the saint? Who, in fine, is to reap the reward? The Secretary well knows, that public opinion has already made him their grand advocate and intercessor, and he will so manage it that, if there is to be any glory, it is to be his inheritance—if any disgrace, it is to be entailed on the President. No, sir, this is the magnificent scheme of the favorite—the genius, the master spirit of the *West*. I intend nothing invidious to my friends here, from that interesting section of the Union. I respect them much, I admire their frankness, intelligence, and liberality; and even their extravagance has its apology. They occupy a vast, interesting country—they have aspiring forests, majestic rivers, sublime mountains. They look upon the scene, and contemplate the prospect before them; and the mind is enlarged, expanded, elevated, sublimated. But this scheme of the Secretary, in point of extravagance, transcends all imagination. All the nations of this vast continent are to be arrayed. Buenos Ayres, the Banda Oriental, Chili, and Peru, are to form the right; Colombia, Guatemala, and Mexico, the centre; the United States the left, and Maine the extreme left. The *little* empire of Brazil, and the hordes of Canada and

Nova Scotia, are probably to be disposed of; and then we can present one undivided front to Europe and Africa, and another to Asia and the Isles of India. And the conception and contemplation of this mighty achievement, posterity is to ascribe to the matchless spirit of the West!

But, the next power granted to this Congress, and in which we are to participate, is this: It is to be a *rallying point* in danger. The United States, in case of danger, are to fix their rallying point at the Isthmus of Darien! Sir, I would as soon fix it in Symmes' cavity. When *we* shall be in danger, *our* rallying point must be *at home*. I do not mean in Fortress Monroe, or in any other of your useless and extravagant fortifications. You have already twice as many as you can ever man, by any disposable force you can ever have in any war in which you will ever be engaged; and the one half is consequently to be occupied by your enemy. This is very magnanimous. Your enemy will be able to strike you with effect on the ocean, and you give him an equal chance with you on the land—thereby converting a religious precept into a political maxim: "If thine enemy smite thee on thy right cheek, turn to him the other also." No, sir, I don't mean these—I mean the Congress of the United States; if you are wise and prudent—the State Governments, if any shall remain—every man's fireside will be his rallying point. And who, in case of danger, will rally round these, and how can you induce them to rally? It is by not attempting too much. Do as little as possible for the People, and leave them as much as you can to do for themselves. Engage in no wild and extravagant schemes and speculations, to pick their pockets, and "eat out their substance." Stay at home, and mind your own affairs. "Peace, commerce, and honest friendship, with all nations, entangling alliances with none"—preserve the Constitution in its purity—keep a vigilant eye, that no encroachments are made on your State Governments—build no more fortifications than you can effectually man—increase your navy just so fast, and no faster than that every additional ship shall not only be a nominal, but a real addition to your strength—give your militia arms and instruction too—practice economy, not talk about it, but *practice* it—pay your debt—relieve your People from all unnecessary burdens—and then, in case of danger, you will find strong arms, stout hearts, and high, disinterested, independent, and patriotic minds, which will rally under "your star-spangled banner," wherever it *ought* to float, and you may defy a world in arms.

The next substantive power of this Congress in which we are to be represented, is *judicial*—the interpretation of treaties. I know it has become unfashionable to recur to this little book—its use is nearly exploded—yet, I am unwilling to surrender it entirely; I would nourish it as a sick friend, and not bury it until it should be surely dead; and, when it must be consigned to the tomb, I would cherish its remembrance, and cling to its precepts. One of these precepts is, that treaties made under its (legitimate) authority, are the supreme laws of the land; and another, that the judicial power extends to *all cases* arising under such treaties. Now, Sir, though I would regard the exercise of our own judicial power with a vigilant, and ever jealous eye, I would not transfer it, if I could, to any Spaniard on earth—even to the Washington of the Southern hemisphere.

An umpirage, in case of disputes, is of the same judicial character, and subject to the same objections: "Sufficient unto the day is the evil thereof." You have no disputes to settle with these nations, which cannot be adjusted by ordinary negotiations. The adjustment of your boundary with Mexico was provided for in your treaty with Spain, before the Mexican Revolution; the obligations of that treaty falls upon the new State; no impediment has been thrown in the way; and it is understood that this point is settled. Nations, not parties, will never submit to the decisions of this Congress, and questions between the parties will be determined in a Congress, where those whose views and feelings will be coincident, are *five*, and, perhaps, will be, *ten to one* against you. Such a tribunal I would never create—to its decisions, I would never submit.

Whether, to establish intimate relations between the parties, is a distinct grant of power, or merely the *purpose*, or reason of the grants, is not certain. It may be nothing more than was intended in our Constitution, by providing "for the general welfare." For the purpose of doing this our Congress was to exercise certain powers, and for the purpose of establishing "intimate relations," this Congress is to exercise those specifically defined. In the treaty between Colombia and Guatemala, this is the expression—"for the *purpose* of establishing, on a more solid basis, the intimate relations which *exist* between them all, individually, and collectively;" a general Congress was to be assembled, &c. to exercise the powers delegated, and no others.

If, in the examination into the nature and character of this Congress, and the extent of its powers as granted by

these compacts, I do not much mistake, we necessarily come to the following results: It is perpetual; and it is expressly prohibited to receive and accredit our Ministers. It has no power of diplomacy or negotiation; or, if it has, it would be a departure from our established policy, a perversion of the Constitution, and a dangerous innovation of legislation, to confer, on a foreign permanent tribunal, even the power to originate treaties. It is essentially belligerent; *legislative*, in providing means to annoy its enemies, and *judicial*, in determining international differences, and settling international law as interpreters of treaties; and, by its institution, it is limited to "the American nations formerly Spanish." As, therefore, we could send no Ministers to such a Congress, or could authorize them to do no individual act, consistent with our neutrality; and they could not be permitted to participate in any thing consistent with the constitutional compacts which establish this Congress, it seems to me the height of absurdity to appoint Ministers Plenipotentiary. If we have any interest at all in the result of their deliberations, it would have been better served by an agent, appointed by the President to ascertain their objects, attend to the progress of their proceedings, and communicate the information to our Government.

Here I might stop, had not the President, in his message, and the Spanish American Ministers, in their correspondence with us, pointed out other objects, not embraced within the limits of their constitutional compacts. As it appears to be the opinion of each, that objects, other than those confided to this Congress by these compacts, may be matters of consideration and decision, it is proper to examine them. The President, in his Message, is of opinion that we may aid them by our experience, and instruct them in principles of religious freedom; and the gentleman from Louisiana, speaks of the moral effect to be produced, and the dignity to be conferred. Thus, we are to depute Mr. Sergeant and Mr. Anderson, in the double capacity of ministers and missionaries. Whether they are to have double outfits and salaries, we are not yet informed. Indeed, Sir, I apprehend, from recent disclosures, they will think less of our "experience" than they have done, if not of our *sincerity*; and if we would send ministers at all, it should be to relieve us from the thralldom in regard to the mediation of Russia. When the documents communicated were in reading, and I perceived from the letters of Mr. Middleton and Mr. Clay that

the Emperor Alexander had agreed to mediate with Spain for the *recognition* of her colonies, I was inspired with admiration at, and gratitude for, such magnanimity—that the head of the Holy Alliance, the defender and protector of the rights of kings, should become a mediator in favor of Republics, was extraordinary and unexpected, and an indication of real greatness. I listened, therefore, with intense interest for his declaration to that effect. The letter of Count Nesselrode was read—this was a polite, but frank refusal. From the next despatch we expected to hear that the Emperor had changed his mind—but, this was all. [Here Mr. H. read Count Nesselrode's letter of the 20th August, 1825.] I had previously learned that the condition, not the independence of the Spanish Americas, had been discussed in the European Congress; that the Mexican Legation had been ordered to leave Spain—that Government refusing to hear the subject of their independence even discussed; and with this information, and this letter before him, how any man could have been led to believe that this document was an agreement of the Emperor to mediate for this recognition by Spain, was to me utterly astonishing. But it is more extraordinary still, if we suppose that the Secretary had, at the time of the first message, the papers from Mr. Everett afterwards sent us. These go to establish, unequivocally, the determination of Russia not to mediate, and of Spain not to recognize the independence of her colonies, on any consideration. That Mr. Middleton should have been deceived, I could readily suppose; he is much more distinguished for his honesty and goodness of heart, than for his political or diplomatic wisdom, or experience; and it is not singular that his wishes should get the better of his judgment. But how the adroit Secretary could have thus deluded himself, is past conjecture. The stupid and infatuated Spanish Monarch is firmly and confidently relying on Divine Providence to give him back his colonies, without any exertion of his own—that Providence who cares, probably, less for him than for the "sparrow that falls to the ground," and who will interfere, if at all, "to break the rod of the oppressor and let the oppressed go free."

I need only call the recollection of gentlemen to Spanish history to prove that this obstinacy and perseverance is characteristic of that nation. Portugal, after having been sixty years subject to Spain, in 1640, revolted, and, under the Braganzas, drove the Spaniards from their country. You will recollect how long Spain struggled to reconquer

that then gallant People; she persevered against reason, and hoped against hope. The united provinces were subject to Spain. They were the carriers for all Europe; from Lisbon, the depot of the wealth of the East, and Cadiz, the depot of that of the West, they transported to, and supplied, all the North of Europe. Antwerp was the most commercial city in the world. In 1570, the the Hollanders revolted. Spain was then to Europe what Russia is now. The power established by Charles the Fifth, was in its strength and vigor. These revolted provinces, however, maintained the struggle, under every disadvantage, but with wonderful success. In ten years after the first revolt, they were excluded from Lisbon by the subjugation of Portugal to Spain, and in five years after, their beautiful Antwerp was sacked and ruined by that monster the Duke of Parma; but amid these reverses and misfortunes, they maintained the war. Amsterdam rose on the ruins of Antwerp. Driven from Lisbon and Cadiz, they sought the commerce of the East and West Indies at its sources; and the colonies of Spain and Portugal in the remotest parts of the world felt their power, and were subjected by their arms. After a vindictive and cruel war of near forty years, Spain was compelled to agree to a truce for twelve years. The truce was violated before it had expired; the war was renewed; and Spain again experienced everywhere disaster and defeat. Her rich galleons were captured; her fleets were defeated in repeated conflicts; her Armada was destroyed, even in the Downs; and, though beaten, weakened, humbled, and on the brink of ruin, it was not until the peace of Westphalia, in 1648, that she consented to acknowledge the Independence of these Provinces. The character of Spain is not changed, and in modern times you have witnessed the same persevering obstinacy against one of the most powerful and successful conquerors the world ever saw. And with these facts before us, how comes it to pass, that we are encouraging these Americans, that Spain is disposed to acknowledge their Independence, and that when her infatuated monarch says, emphatically, *No*, he undoubtedly means *yes*? And what has been the effect of this delusive hope which we have inspired? The Spanish Americans have been deterred from striking Spain in her most vulnerable part, and the only one within striking distance, and Cuba and Porto Rico are so strengthened that they may probably now bid defiance to the united efforts of the Spanish American nations. This is one of the blessed effects of officiously

intermeddling in affairs of our neighbors. But this is not the only effect of this officious friendship. In pressing this hopeless intermediation of the Emperor Alexander we have dropped a word, which, if fairly understood by the crafty Nesselrode, may justly give great offence to these *our friends*. We are, it seems, to use our influence "in defeating, *as far as may be in our power*, every interference against those Islands in securing the rights of his Catholic Majesty constant and proper respect, and in maintaining the only state of things that can preserve a just balance of power in the sea of the Antilles."

Add to this, that we are to intermeddle with their *religion*. On this subject the President is very explicit—"There is" (he says) "another subject, upon which, without entering into any treaty, the moral influence of the United States may, perhaps, be exerted with beneficial consequence at such a meeting—the *advancement of religious liberty*. Some of the Southern nations are even yet so far under the dominion of prejudice that they have incorporated, *with their political constitutions*, an *exclusive church*, without toleration of any other than the dominant sect. The abandonment of this last badge of religious bigotry and oppression may be pressed more effectually, by the united exertions of those who concur in the principles of freedom of conscience, upon those who are yet to be convinced of their justice and wisdom, than by the solitary efforts of a minister to any one of the separate Governments." We then are to exert our influence there to induce an abandonment of this last badge of religious bigotry and oppression—an exclusive and intolerant church, which some have incorporated with their political institutions. How any one could suppose or even dream that such an object could be accomplished, when these nations have expressly stipulated that this Congress shall do nothing which shall "interrupt the *establishment and form of their respective Governments*," is, indeed, difficult to conceive. It is true that Mexico has incorporated these obnoxious principles in her Federal Constitution, and it is equally true, that her Government cannot, and much less can this Congress, alter that Constitution and expunge them.

An interference in this most delicate of all subjects, would be as impolitic as unfriendly. The intelligent men of Mexico would have gladly rejected this constitutional provision, but they were obliged to concede it as the *price* of their independence. No People on earth

are more devoted to their religion than Catholics—none are under more absolute control of their priests. Without conciliating the People and their priests, their Revolution could never have been effected. The smallest attempt to touch them in this tender point might even produce a counter-Revolution. If we look at home, we may learn that *we* were obliged to countenance the same intolerant spirit to effect *our* Revolution. In an address of Congress we urged as one of our complaints against the British King, his toleration of the French Catholics in Canada, and by the Constitution of Massachusetts, an oath of abjuration was required, which went to exclude Catholics from every office. When a People is struggling for independence, politicians are obliged to yield to narrow, illiberal, popular prejudices, which they condemn, and leave it to time and the progress of intelligence to work the cure.

Our dear friends, the Spanish Americans, might well expostulate and complain thus: "You advised us to refrain from an invasion of Cuba, lest it should prevent the mediation of Russia. We did refrain; Spain has gained time and recovered strength, and the mediation is all a delusion." What would be your answer? "Mr. Clay is the champion of your cause, and he believed as he wished. Like a gentleman in love—he pressed his suit with all the eagerness of a distracted lover; the lady could not encourage his addresses, but she was too good and too candid to deceive or coquette him. She determined to give him a frank, unequivocal refusal; but in such a manner, having respect for his merits, as not to wound his feelings. She did so, and the refusal was so kind, that the fond foolish lover thought she had relented, and would not take *no* for an answer." This apology *might* satisfy them. "But how does it happen that your government is to defeat, *as far as in its power*, every enterprise of ours against Cuba and Porto Rico?" "Oh, we mean no such thing; the cunning Russian has misquoted and circumvented us." "But you, it seems, have come to modify our religion. This is the unkindest cut of all. Our People consider you as heretics, dissenters, and apostates from the true faith. Let this part of your mission be known, let it be understood that our holy religion is in danger; a storm will be raised that nothing can withstand, and we who invited you will be the first victims of its fury. The priests will sound the alarm; it will reach the ears of every pious man: the standard of Ferdinand, 'his most faithful Majesty,' will be raised, and a counter-revolution be achieved in not

so many months, as we were years in accomplishing our independence." I suppose their answer to this expostulation would be, that this was only a bait to catch the pious, and make the measure popular here.

The course we *have* pursued and ought to pursue in regard to Cuba, is matter of much perplexity. A dark cloud hangs over that Island, and bears a threatening aspect—which way it will pass over, where it will burst, or whether it will burst at all, no mortal can predict.— Suppose the worst—an insurrection of the slaves, a servile war—can you, ought you, to interfere? Which side would you take? Against the insurgents? My life for it, you could not maintain such a war—public opinion would not sustain you. A war out of the limits of the U. States, a foreign war, to reduce men to servitude! Not an arm and scarcely a voice north of the Potomac, would be raised in your behalf. An administration who should attempt it, would seal its own destruction. No, Sir, the liberal and discreet politicians of the North, sympathise with their brethren of the slave-holding States. Our maxim is, that it is an evil, which *we* cannot remedy. The only relief we can give them, is to let them manage it *themselves*, and that any interference on our part will make it worse. But beyond this we will not go. To send our troops, the sons of freemen, to a foreign country, to be the victims of the sword and the pestilence, for the purpose of suppressing an insurrection of the slaves, is a measure against which we shall ever protest—to which we shall never submit. We could not if we would—the apostles of liberty, the advocates of universal emancipation would cry aloud, and denounce this war in favor of slavery! Their voices would be heard, even in the humble habitation of the slave, and you would soon find it necessary to withdraw your army to preserve peace at home. So much for the North. I now ask the gentlemen of the South whether, if it is only intended to *discuss* the condition of Cuba, Panama is the proper place. You have already said too much *against* emancipation. By provoking a discussion you increase the evil you attempt to remedy. On this subject your wisest policy is to say but little. But if you will speak, let it not be on the house top. To this extraordinary Congress the eyes of the world are turned. Its objects, its deliberations, its determinations, are matters of universal interest. Let it be known that the rights of the slaves of Cuba are to be discussed there, and every philanthropist and fanatic in Europe will be on the alert—their voices will be responded from the American continent—the blacks will take

fire, and the scenes of St. Domingo will be re-acted at home. No, let me repeat, when you cannot see where to go nor what to do, stand still and do nothing. And wherein is the justice of your interference? You go there as invited friends, and on a subject most of all important, you oppose them. So far as regards Spanish America, leave Cuba to its fate. These nations will, as they have told you, go in aid of the Creole population, and surely it would be a miserable aid indeed to let loose the slave upon his master. Your interference, in any way, will be an injury to them, if not a curse to your country.

And what good reason can induce you to unite in settling the political condition of Hayti? Are you not now satisfied with its condition? If your political relations are not sufficiently close, it is your own fault: for Hayti has always been solicitous for a closer union. You need not surely send to Panama to determine what are your own wishes. Nor need you fear what will be the determination of that Congress, in regard to that Island. When France, as you supposed, had acknowledged its independence, you felt no alarm, and why should you fear if the Spanish Americans should do the same? But the gentleman from Louisiana insinuates, that, if the Haytiens should ever be represented at Washington, their minister or agent must be a *white* man. Now, if it is really a question of sufficient importance, to determine whether he should be black, yellow or white, Panama is the last place in the world where I should go to settle it. When our fresh and fair ministers shall enter the Hall of that Congress, and look round it on their associates, I apprehend that they will deem it invidious and indelicate to talk about *color*. If you or I sir, had been selected for this mission, or some of my friends who sit round me, or some of those on the other side of the way, we might have discussed a question of *complexion* with a much better grace. But as it is, I am inclined to believe we had better leave it to the United States and Hayti to determine it themselves.

But, it seems, the law of nations is to be re-enacted, or modified; the list of contraband is to be limited; blockades are to be defined, and free ships are to make free goods—and to do all this, we must be represented at this Congress. Are these doctrines of ours at this time in peculiar jeopardy? Are we any where threatened with a resistance to the principles which we have endeavored to maintain? Do any of these nations object to our maxims of policy on any of these subjects? With France, Holland, Spain, Prussia, Denmark, and

Sweden, we have, by Treaty, adjusted these points to our own satisfaction. With Russia we have no treaty, yet we know her views to be coincident with ours, in regard to them all. You well recollect that, in 1780 or 1781, while France, Holland, Spain, and the United States, were at war with England, Russia was principal in forming what I think was called by some "the quadruple alliance," but generally, the "armed neutrality." Look at the manifesto of those powers on that occasion, and you will find their doctrines of contraband, blockade, and giving the character of the goods to the ship, in perfect agreement with our own. And is there the least ground of fear that these Spanish Americans will resist these principles? Our marine strength is far superior to all theirs combined, and these principles for which we contend, are always concessions of the stronger to the weaker state. This is the reason why England will never yield them. These nations, now at war with Spain, might be disposed to search for enemies' goods, on board of the ships of a weak or inconsiderable neutral, but knowing the strength of our navy, they never would venture on such an experiment upon us, and they never have done it. The reason is manifest. By our treaty with Spain, we can carry the goods of a Spanish American, without molestation from Spanish cruisers; and, consequently, these Spanish Americans ought not to molest us, if we do the same for a subject of Spain, and they do not molest us. In the treaties with them already made, this has never been a point of difficulty, and never will be; they will always consider it a concession made to *them*.

As to a reciprocity in commerce, that, when we have negotiated, has been conceded without difficulty, except with Mexico; and it is understood that, with her, the point is, at length, adjusted; and, if we were to encounter a question of that sort, it had much better be done with each, individually, without danger of a combination of interests against us.

The Slave Trade has been mentioned as a subject to come under the deliberations of this Congress, and we have had a pretty smart rebuke from Mr. Salazar for not ratifying the Colombian convention. This subject I think I understand, and I might occupy a day in its discussion; yet, from the limits I have prescribed to myself, I can scarcely afford it five minutes. Suffice it, then, to say, that however I detest this traffic, whatever force, and at whatever expense, I would employ to suppress it, I never would concede the *right of search* to any nation under Heaven;

nor would I, for any consideration, whether of humanity or policy, permit an officer of a foreign government to arrest and hold for trial a citizen of the United States, on his suspicion that such citizen had committed a crime against our own laws. If, however, this Congress is, by declaration or manifesto, to declare this traffic piracy *by the law of nations*, and such declaration or manifesto, not being a treaty, could not be submitted to the determination of the Senate, the result, as to us, will be the same as if we had established the principle by treaty. If the other parties receive it as law, and act upon it as international law, your citizens will be subject to search, arrest trial, and punishment, by foreigners, for a crime, strictly municipal, without trial by jury, or any of the securities guarantied by the Constitution. In this way, municipal may be converted into national law, not only by the treaty-making power, but by the President alone, without the intervention even of the Senate, and the Executive of this country would acquire a legislative power without limit and above control. However upright he may be, the genius of the Government will not permit any man to wield such a power. Was I not, then, right, in stating that we were *acting in the dark*? And is it not equally true, that we are taking a step which we can never retrace? Sir, you are on dangerous, untrodden ground—you are approaching the brink of a precipice—the ground trembles beneath your feet—advance one step, and you may plunge into the abyss, and be lost forever.





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